



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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To Mrs. Rasmussen	From L. Blanton
Co.	Co. UT OIL, GAS, MIN.
Dept.	Phone # 538-5340
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November 24, 1993

DOGM
MINERALS PROGRAM
FILE COPY

Mr. Richard W. Harris, Esq.
Harris, Trimmer and Thompson
6121 Lakeside Drive, Suite 260
Reno, Nevada 89511

Re: Request for Permitting Information, Kennecott Corporation,
Barneys Canyon Mine, M/035/009, Salt Lake County, Utah

Dear Mr. Harris:

On November 22, 1993, D. Wayne Hedberg of my staff was contacted by Mrs. Cindy Rasmussen (your client), reportedly on your behalf, requesting clarification of certain permitting provisions/requirements as outlined under the Mined Land Reclamation Act of 1975 and its promulgated interpretive rules. She requested the Division's position on whether an unresolved private property dispute between her family and Kennecott Corporation, would justify temporary suspension of the Division's approval of a pending permit amendment to the Barneys Canyon mining operation when her property is involved in the pending amendment.

It is important to emphasize that we have not yet received the revised permit application from Kennecott Corporation's Barneys Canyon Mine, which allegedly involves the property in question. We do anticipate receiving the application in the near future.

The following is our outline of the statutory authority and regulatory authority provided under the Utah Mined Land Reclamation Act, as it may apply to surface and mineral ownership concerns:

Title 40-8-7(1)(a), gives the Board and Division of Oil, Gas and Mining authority to require the identification of the ownership of all interests in mineral deposits included within a notice of intention, including surface ownership of all land affected in the notice.

Title 40-8-13(5)(c), requires the Division to mail a copy of the tentative decision (on the review of a permit application) to the owner(s) of record of the lands affected.



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Title 40-8-13(5)(d)(i), Any person or agency aggrieved by the tentative decision may file a request for agency action with the Division;

Title 40-8-13(5)(d)(iii) If written objections of substance are received, the Division shall hold a formal adjudicative proceeding.

Rule R647-4-104.2, requires a permit application to include the name(s), permanent mailing address, and telephone number of the surface landowner(s) and mineral owner(s) of all land to be affected by the proposed mining operations.

Rule R647-4-116.1.1, requires the Division to provide a copy of the tentative decision to the owner(s) of record of the land affected, as described in the notice of intention.

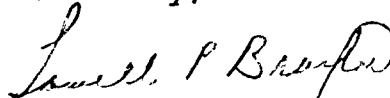
Rule R647-4-116.2, Any person or agency aggrieved by the tentative decision may file a written protest with the Division, during the public comment period identified in the (published) notice, setting forth factual reasons for the complaint.

Rule R647-4-116.4, If written objections of substance are received by the Division during the public comment period, a hearing shall be held before the Board in accordance with UCA 40-8-9, following which hearing the Board shall issue its decision.

Since the Division does not have an application to amend or revise a permit application to act upon, we have no legal authority to rule on this issue at this time. Accordingly, we will suspend offering an opinion, or taking any position on this matter, until we receive and process the application through the permitting process as provided by statute and rule.

Please feel free to contact me, or D. Wayne Hedberg, of the minerals regulatory program, if we can assist you with further information regarding our regulatory process.

Sincerely,



Lowell P. Braxton
Associate Director, Mining

jb

cc: Cindy Rasmussen

Hal LaFleur

Dave Hodson, Barneys Canyon Mine

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